



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

HB3324

by Rep. Mike Fortner

#### SYNOPSIS AS INTRODUCED:

220 ILCS 5/8-406

from Ch. 111 2/3, par. 8-406

Amends the Public Utilities Act. Provides that no construction shall commence on any new commercial scale nuclear power plants (rather than new nuclear power plants) that are to be located in the State, and no certificate of public convenience and necessity or other authorization shall be issued therefor by the Commission unless the Director of the Illinois Environmental Protection Agency finds that the United States Government, through its authorized agency, has identified and approved a demonstrable technology or means for the disposal of high level nuclear waste, or until such construction has been specifically approved by a statute enacted by the General Assembly. Provides that the Illinois Commerce Commission may issue a certificate of public convenience and necessity and provide any other authorizations necessary to allow operating nuclear power plants to install pilot-scale projects and technologies designed to reduce waste and increase safety and having an output not exceeding 160 megawatts. Effective immediately.

LRB098 08294 JLS 41422 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Public Utilities Act is amended by changing  
5 Section 8-406 as follows:

6 (220 ILCS 5/8-406) (from Ch. 111 2/3, par. 8-406)

7 Sec. 8-406. Certificate of public convenience and  
8 necessity.

9 (a) No public utility not owning any city or village  
10 franchise nor engaged in performing any public service or in  
11 furnishing any product or commodity within this State as of  
12 July 1, 1921 and not possessing a certificate of public  
13 convenience and necessity from the Illinois Commerce  
14 Commission, the State Public Utilities Commission or the Public  
15 Utilities Commission, at the time this amendatory Act of 1985  
16 goes into effect, shall transact any business in this State  
17 until it shall have obtained a certificate from the Commission  
18 that public convenience and necessity require the transaction  
19 of such business.

20 (b) No public utility shall begin the construction of any  
21 new plant, equipment, property or facility which is not in  
22 substitution of any existing plant, equipment, property or  
23 facility or any extension or alteration thereof or in addition

1 thereto, unless and until it shall have obtained from the  
2 Commission a certificate that public convenience and necessity  
3 require such construction. Whenever after a hearing the  
4 Commission determines that any new construction or the  
5 transaction of any business by a public utility will promote  
6 the public convenience and is necessary thereto, it shall have  
7 the power to issue certificates of public convenience and  
8 necessity. The Commission shall determine that proposed  
9 construction will promote the public convenience and necessity  
10 only if the utility demonstrates: (1) that the proposed  
11 construction is necessary to provide adequate, reliable, and  
12 efficient service to its customers and is the least-cost means  
13 of satisfying the service needs of its customers or that the  
14 proposed construction will promote the development of an  
15 effectively competitive electricity market that operates  
16 efficiently, is equitable to all customers, and is the least  
17 cost means of satisfying those objectives; (2) that the utility  
18 is capable of efficiently managing and supervising the  
19 construction process and has taken sufficient action to ensure  
20 adequate and efficient construction and supervision thereof;  
21 and (3) that the utility is capable of financing the proposed  
22 construction without significant adverse financial  
23 consequences for the utility or its customers.

24 (c) No ~~After the effective date of this amendatory Act of~~  
25 ~~1987, no~~ construction shall commence on any new commercial  
26 scale nuclear power plant to be located within this State, and

1 no certificate of public convenience and necessity or other  
2 authorization shall be issued therefor by the Commission, until  
3 the Director of the Illinois Environmental Protection Agency  
4 finds that the United States Government, through its authorized  
5 agency, has identified and approved a demonstrable technology  
6 or means for the disposal of high level nuclear waste, or until  
7 such construction has been specifically approved by a statute  
8 enacted by the General Assembly.

9 The Commission may issue a certificate of public  
10 convenience and necessity and provide any other authorizations  
11 necessary to allow operating nuclear power plants to install  
12 pilot-scale projects and technologies designed to reduce waste  
13 and increase safety, provided that the output of these programs  
14 does not exceed 160 megawatts.

15 As used in this Section, "high level nuclear waste" means  
16 those aqueous wastes resulting from the operation of the first  
17 cycle of the solvent extraction system or equivalent and the  
18 concentrated wastes of the subsequent extraction cycles or  
19 equivalent in a facility for reprocessing irradiated reactor  
20 fuel and shall include spent fuel assemblies prior to fuel  
21 reprocessing.

22 (d) In making its determination, the Commission shall  
23 attach primary weight to the cost or cost savings to the  
24 customers of the utility. The Commission may consider any or  
25 all factors which will or may affect such cost or cost savings,  
26 including the public utility's engineering judgment regarding

1 the materials used for construction.

2 (e) The Commission may issue a temporary certificate which  
3 shall remain in force not to exceed one year in cases of  
4 emergency, to assure maintenance of adequate service or to  
5 serve particular customers, without notice or hearing, pending  
6 the determination of an application for a certificate, and may  
7 by regulation exempt from the requirements of this Section  
8 temporary acts or operations for which the issuance of a  
9 certificate will not be required in the public interest.

10 A public utility shall not be required to obtain but may  
11 apply for and obtain a certificate of public convenience and  
12 necessity pursuant to this Section with respect to any matter  
13 as to which it has received the authorization or order of the  
14 Commission under the Electric Supplier Act, and any such  
15 authorization or order granted a public utility by the  
16 Commission under that Act shall as between public utilities be  
17 deemed to be, and shall have except as provided in that Act the  
18 same force and effect as, a certificate of public convenience  
19 and necessity issued pursuant to this Section.

20 No electric cooperative shall be made or shall become a  
21 party to or shall be entitled to be heard or to otherwise  
22 appear or participate in any proceeding initiated under this  
23 Section for authorization of power plant construction and as to  
24 matters as to which a remedy is available under The Electric  
25 Supplier Act.

26 (f) Such certificates may be altered or modified by the

1 Commission, upon its own motion or upon application by the  
2 person or corporation affected. Unless exercised within a  
3 period of 2 years from the grant thereof authority conferred by  
4 a certificate of convenience and necessity issued by the  
5 Commission shall be null and void.

6 No certificate of public convenience and necessity shall be  
7 construed as granting a monopoly or an exclusive privilege,  
8 immunity or franchise.

9 (g) A public utility that undertakes any of the actions  
10 described in items (1) through (3) of this subsection (g) or  
11 that has obtained approval pursuant to Section 8-406.1 of this  
12 Act shall not be required to comply with the requirements of  
13 this Section to the extent such requirements otherwise would  
14 apply. For purposes of this Section and Section 8-406.1 of this  
15 Act, "high voltage electric service line" means an electric  
16 line having a design voltage of 100,000 or more. For purposes  
17 of this subsection (g), a public utility may do any of the  
18 following:

19 (1) replace or upgrade any existing high voltage  
20 electric service line and related facilities,  
21 notwithstanding its length;

22 (2) relocate any existing high voltage electric  
23 service line and related facilities, notwithstanding its  
24 length, to accommodate construction or expansion of a  
25 roadway or other transportation infrastructure; or

26 (3) construct a high voltage electric service line and

1           related facilities that is constructed solely to serve a  
2           single customer's premises or to provide a generator  
3           interconnection to the public utility's transmission  
4           system and that will pass under or over the premises owned  
5           by the customer or generator to be served or under or over  
6           premises for which the customer or generator has secured  
7           the necessary right of way.

8           (Source: P.A. 95-700, eff. 11-9-07; 96-1348, eff. 7-28-10.)

9           Section 99. Effective date. This Act takes effect upon  
10          becoming law.